

Amendments to the Drawings:

The attached single sheet of drawings includes changes to Fig. 1. This sheet replaces the original sheet including Fig. 1.

Attachment: One (1) Replacement Sheet.

REMARKS

Claims 1-8 are pending in the present application. The drawings were objected to under 37 CFR §1.84(p)(5). Claims 1-5 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Engelhardt (US 2002/0003204). Claims 1 and 5 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8-10 and 15 of copending U.S. Patent Application No. 10/853,991. Claims 6 and 7 were indicated as being allowable if rewritten in independent form.

New claims 9-14 have been added. The drawings have been amended.
Reconsideration of the application is respectfully requested.

Objection to the drawings

The drawings were objected to under 37 CFR 1.83(p)(5) as not including in Fig. 1 reference sign 36 mentioned in the description. A replacement Fig. 1 is submitted herewith for the Examiner's consideration. Replacement Fig. 1 now shows reference number 36 indicating a first mirror, as described in the specification on page 7, lines 18-20.

Withdrawal of the objections to the drawings under 37 CFR 1.83(p)(5) is respectfully requested.

Rejections under 35 U.S.C. §102(b)

Claims 1-5 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Engelhardt (US 2002/0003204).

Engelhardt describes apparatus in which an optically active component 4 selects wavelengths from light 1 from a laser source 2 to produce light 5, which is partially reflected by a dichroic beam splitter 6 to a scanning device 7. Part of light 5 passes through beam splitter 6 toward a detector 17. Detection light returning from scanning device 7 passes through beam splitter 6 toward a detector 10. See paragraph [0039] on pages 3-4, and Fig. 3.

Independent claim 1 of the present application recites "an acoustooptical component that ... conveys detected light proceeding from the sample to a detector." Independent claims 1 and 8 recite "at least one monitoring detector which is arranged in the beam path of the output light from which the illuminating light has been split out." It is respectfully submitted that Engelhardt teaches neither of these feature(s) of claims 1 and 8. In contrast, in Engelhardt detection light travels from scanning device 7 directly through beam splitter 6 to detector 10. The detection light is never conveyed by optically active component 4. Thus an acoustooptical component never conveys detected light proceeding from the sample to a detector, as recited in claim 1. Moreover, in Engelhardt the detector 17 is disposed in the beam path of the illuminating light 5 that has been split out from light 1, rather than being arranged in the beam path of the output light *from which* the illuminating light has been split, as recited in claims 1 and 8. Because Engelhardt is missing at least these feature(s) of independent claims 1 and 8, it is respectfully submitted that Engelhardt cannot anticipate claims 1 or 8, or any dependent claims.

Withdrawal of the rejection of claims 1-5 and 8 under 35 U.S.C. §102(b) based on Engelhardt is respectfully requested.

Provisional rejection under obviousness-type double patenting

Claims 1 and 5 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 8-10 and 15 of copending U.S. Patent Application No. 10/853,991.

A terminal disclaimer was filed on November 9, 2005 in the copending Application No. 10/853,991, which application has a filing date of May 26, 2004. The present application has an earlier filing date, January 22, 2004. It is respectfully that the provisional double patenting rejection in the present application can accordingly now be withdrawn. See MPEP §804 I.B.1.

Withdrawal of the provisional rejection of claims 1 and 5 under the judicially-created doctrine of obviousness-type double patenting is respectfully requested.

Allowable subject matter

Claims 6 and 7 were indicated as being allowable if rewritten in independent form. Applicants gratefully acknowledge this indication of allowability. New claims 9 and 10 have accordingly been presented reciting the limitations of allowable claims 6 and 7, including the base claim and any intervening claims. New claims 11-14 have also been presented depending ultimately from new claim 9 and reciting the limitations of original claims 2-5. It is respectfully submitted that new claims 11-14 are patentable over the prior art for the same reasons claim 6 is.

CONCLUSION

It is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

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